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7 GREEN RENEWABLE ORGANIC AND  
8 WATER HOLDINGS, LLC, et al.,  
9 Plaintiffs,  
10 v.  
11 BLOOMFIELD INVESTMENTS, LLC,  
12 Defendant.

Case No. [21-cv-07181-HSG](#)

**ORDER GRANTING IN PART AND  
DENYING IN PART PLAINTIFF'S  
ADMINISTRATIVE MOTION TO  
SEAL**

Re: Dkt. No. 25

13 Pending before the Court is Plaintiff's administrative motion to file under seal certain  
14 exhibits to, and portions of, its Amended Complaint, Dkt. No. 22. For the reasons below, the  
15 Court **GRANTS in part and DENIES in part** the motion, Dkt. No. 25.

16 **I. LEGAL STANDARD**

17 Courts generally apply a "compelling reasons" standard when considering motions to seal  
18 documents. *Pintos v. Pac. Creditors Ass'n*, 605 F.3d 665, 678 (9th Cir. 2010) (quoting *Kamakana*  
19 v. City & Cty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006)). "This standard derives from the  
20 common law right 'to inspect and copy public records and documents, including judicial records  
21 and documents.'" *Id.* (quoting *Kamakana*, 447 F.3d at 1178). "[A] strong presumption in favor of  
22 access is the starting point." *Kamakana*, 447 F.3d at 1178 (quotations omitted). To overcome this  
23 strong presumption, the party seeking to seal a judicial record attached to a dispositive motion  
24 must "articulate compelling reasons supported by specific factual findings that outweigh the  
25 general history of access and the public policies favoring disclosure, such as the public interest in  
26 understanding the judicial process" and "significant public events." *Id.* at 1178–79 (quotations  
27 omitted). "In general, 'compelling reasons' sufficient to outweigh the public's interest in  
28 disclosure and justify sealing court records exist when such 'court files might have become a

1 vehicle for improper purposes,’ such as the use of records to gratify private spite, promote public  
2 scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179 (quoting *Nixon v.*  
3 *Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). “The mere fact that the production of records  
4 may lead to a litigant’s embarrassment, incrimination, or exposure to further litigation will not,  
5 without more, compel the court to seal its records.” *Id.*

6 The Court must “balance[] the competing interests of the public and the party who seeks to  
7 keep certain judicial records secret. After considering these interests, if the court decides to seal  
8 certain judicial records, it must base its decision on a compelling reason and articulate the factual  
9 basis for its ruling, without relying on hypothesis or conjecture.” *Id.* Civil Local Rule 79-5  
10 supplements the compelling reasons standard set forth in *Kamakana*: the party seeking to file a  
11 document or portions of it under seal “must explore all reasonable alternatives to filing documents  
12 under seal, minimize the number of documents filed under seal, and avoid wherever possible  
13 sealing entire documents . . . .” Civil L.R. 79-5(a). The party must further explain the interests  
14 that warrant sealing, the injury that will result if sealing is declined, and why a less restrictive  
15 alternative to sealing is not sufficient. *See* Civil L.R. 79-5(c).

16 Records attached to nondispositive motions must meet the lower “good cause” standard of  
17 Rule 26(c) of the Federal Rules of Civil Procedure, as such records “are often unrelated, or only  
18 tangentially related, to the underlying cause of action.” *See Kamakana*, 447 F.3d at 1179–80  
19 (quotations omitted). This requires a “particularized showing” that “specific prejudice or harm  
20 will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*,  
21 307 F.3d 1206, 1210–11 (9th Cir. 2002); *see also* Fed. R. Civ. P. 26(c). “Broad allegations of  
22 harm, unsubstantiated by specific examples of articulated reasoning” will not suffice. *Beckman*  
23 *Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992) (quotation omitted).

## 24 II. DISCUSSION

25 Because the complaint is the pleading on which this action is based and clearly more than  
26 tangentially related to the underlying cause of action, the Court applies a “compelling reasons”  
27 standard to the motion. *See, e.g., Align Tech., Inc. v. SmileDirectClub, LLC*, No. 23-CV-00023-  
28 EMC, 2023 WL 1931849 at \*1 (N.D. Cal. Feb. 9, 2023) (“[T]he Court agrees . . . that there must

1 be compelling reasons to seal any portion thereof because ‘a complaint is the foundation of a  
2 lawsuit.’’’); *Space Data Corp. v. Alphabet Inc.*, No. 16-CV-03260-BLF, 2018 WL 10454862 (N.D.  
3 Cal. Aug. 31, 2018); *In re Google Inc. Gmail Litig.*, No. 13-MD-02430-LHK, 2013 WL 5366963  
4 at \*2 (N.D. Cal. Sept. 25, 2013).

5 By their motion, Plaintiff requests that this Court seal two exhibits attached to their  
6 amended complaint (Dkt. No. 22-1 at 234 [Exhibit C, Capital Provision Agreement], 276 [Exhibit  
7 D, Amended and Restated Capital Provision Agreement]) because, as capital provision  
8 agreements, they “contain commercially sensitive financing terms and are marked ‘private and  
9 confidential’ and ‘subject to confidentiality agreement.’” Dkt. No 25 at 2. Plaintiffs additionally  
10 request to seal around a dozen portions of the Amended Complaint, Dkt. No. 22, that “depict  
11 information contained” in the confidential exhibits. *Id.* Defendant did not oppose the motion.  
12 However, in Defendant’s subsequent Motion to Confirm Foreign Arbitral Awards, Defendant  
13 recited some of the basic features of the agreement that Plaintiff had sought to seal in its  
14 complaint. Dkt. No. 33. When Plaintiff opposed the motion, it did not object to Defendant’s  
15 reference to this provisionally sealed information. Dkt. No. 39. And in its order staying the cases  
16 and holding Defendant’s motion in abeyance, the Court referred specifically to some of the  
17 features of the agreement that Defendant had articulated. Dkt. No. 68. A few months after this  
18 order, the parties stipulated to dismissal without the Court ever ruling on Defendant’s motion, or  
19 any other substantive motions in the matter. Dkt. No. 75.

20 The Court finds that the nature of the capital provision agreements attached to the  
21 Amended Complaint supports sealing, particularly because the Court did not ultimately rely on  
22 them before the case closed. Where the court does not consider materials that a party has  
23 requested to seal, the public’s interest their disclosure is minimal since they do not aid the public’s  
24 understanding of judicial proceedings. *See In re iPhone Application Litig.*, No. 11-MD-02250-  
25 LHK, 2013 WL 12335013, at \*2 (N.D. Cal. Nov. 25, 2013) (“The public’s interest in accessing  
26 these documents is even further diminished in light of the fact that the Court will not have  
27 occasion to rule on [the relevant motion].”); *see also See Economus v. City & Cty. of San  
Francisco*, No. 18-CV-01071-HSG, 2019 WL 1483804, at \*9 (N.D. Cal. Apr. 3, 2019) (finding

1 compelling reason to seal because the sealing request divulges sensitive information no longer  
2 related to the case); *In re iPhone*, 2013 WL 12335013 (same); *Doe v. City of San Diego*, No. 12-  
3 CV-689-MMA-DHB, 2014 WL 1921742, at \*4 (S.D. Cal. May 14, 2014) (exhibit's disclosure of  
4 personal information and irrelevance to the matter are compelling reasons to seal the exhibit).  
5 Such is the case here. Accordingly, the Court **GRANTS** Plaintiff's request to seal Exhibits C and  
6 D to its Amended Complaint.

7 The Court consequently finds a compelling basis to seal, per Plaintiff's request, some  
8 allegations in the Amended Complaint that convey details about the confidential exhibits'  
9 contents, but will not grant Plaintiff's request in full. In particular, the Court declines to seal  
10 allegations in the complaint containing information that ultimately came to light during the  
11 litigation, and upon which this Court relied. For example, Plaintiff moves to seal allegations  
12 relating to the amount of funds at issue in the capital agreements, the choice of law provisions, and  
13 the mandate to arrive at a "commercially reasonable" settlement, but these and other features of  
14 the agreement emerged in (or were readily inferable from) subsequent filings, particularly  
15 Defendant's Motion to Confirm Foreign Arbitral Awards. Dkt. No. 33. That Plaintiff did not  
16 object to the recitation of this information at that juncture suggests that disclosure is not injurious,  
17 and significantly undercuts Plaintiff's argument that compelling reasons exist to justify sealing the  
18 allegations. Accordingly, the Court **GRANTS** Plaintiff's administrative motion to seal portions of  
19 its Amended Complaint only as to the requests identified (by page:line) at the following  
20 coordinates, and **DENIES** it as to all others:

- 21     • 4:6-8
  - 22         ○ However, these excerpts in that range are not subject to sealing: "Their  
23             agreement included two key features." [line 6]; "Second, the" [line 8].
- 24     • 9:15-16
  - 25         ○ However, these excerpts in that range are not subject to sealing: "Pursuant  
26             to the CPA, Bloomfield advanced \$15 million to Grow Land and KCV"  
27             [line 15] and "Pursuant to the Amended and Restated Capital Provision"  
28             [line 16].
- 9:26-10:15
- 14:15-19
  - 29         ○ Consistent with the proposed redaction.
- 18:9-10

- Consistent with the proposed redaction.

### **III. CONCLUSION**

The Court **GRANTS** in part and **DENIES** in part Plaintiff's administrative motion to seal, Dkt. No. 25. Plaintiff is **DIRECTED** to file an amended complaint on the docket with redactions consistent with this order by November 30, 2023.

## **IT IS SO ORDERED.**

Dated: 11/8/2023

Haywood S. Gilliam, Jr.  
HAYWOOD S. GILLIAM, JR.  
United States District Judge

United States District Court  
Northern District of California